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DEPARTMENT OF COMMERCE

International Trade Administration

[A-555-001, A-560-836, A-557-818, A-801-002, A-549-841, A-489-841, A-552-827]

Mattresses from Cambodia, Indonesia, Malaysia, Serbia, Thailand, the Republic of Turkey, and the Socialist Republic of Vietnam: Initiation of Less-Than-Fair-Value Investigations

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: Applicable April 20, 2020.

FOR FURTHER INFORMATION CONTACT: John McGowan at (202) 482-3019 (Cambodia);

Brian Smith at (202) 482-1766 (Indonesia); Joshua Simonidis at (202) 482-0608 (Malaysia);

Joshua A. DeMoss at (202) 482-3362 (Serbia); Paola Aleman Ordaz at (202) 482-4031

(Thailand); Jacob Keller at (202) 482-4849 (Turkey); and Dakota Potts at (202) 482-0223

(Vietnam); AD/CVD Operations, Enforcement and Compliance, International Trade

Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

The Petitions

On March 31, 2020, the U.S. Department of Commerce (Commerce) received antidumping duty (AD) petitions concerning imports of mattresses from Cambodia, Indonesia, Malaysia, Serbia, Thailand, the Republic of Turkey (Turkey), and the Socialist Republic of Vietnam (Vietnam) filed in proper form on behalf of the petitioners,¹ domestic producers of

¹ Brooklyn Bedding, Corsicana Mattress Company, Elite Comfort Solutions, FXI, Inc., Innocor, Inc., Kolcraft Enterprises, Inc., Leggett & Platt, Incorporated, the International Brotherhood of Teamsters, and United Steel, Paper

mattresses and certified unions that represent workers engaged in the domestic production of mattresses.² The Petitions were accompanied by a countervailing duty (CVD) petition concerning imports of mattresses from the People’s Republic of China (China).³

Between April 3 and 14, 2020, Commerce requested supplemental information pertaining to certain aspects of the Petitions in separate supplemental questionnaires.⁴ The petitioners filed responses to the supplemental questionnaires between April 8 and April 16, 2020.⁵

In accordance with section 732(b) of the Tariff Act of 1930, as amended (the Act), the petitioners allege that imports of mattresses from Cambodia, Indonesia, Malaysia, Serbia, Thailand, Turkey, and Vietnam are being, or are likely to be, sold in the United States at less than fair value (LTFV) within the meaning of section 731 of the Act, and that imports of such products are materially injuring, or threatening material injury to, the domestic mattress industry in the United States. Consistent with section 732(b)(1) of the Act, the Petitions are accompanied by information reasonably available to the petitioners supporting their allegations.

and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL-CIO (USW) (collectively, the petitioners).

² See Petitioners’ Letter, “Mattresses from Cambodia, China, Indonesia, Malaysia, Serbia, Thailand, Turkey, and Vietnam - Antidumping and Countervailing Duty Petitions,” dated March 31, 2020 (the Petitions).

³ *Id.*

⁴ See Commerce’s Letters, “Petition for the Imposition of Antidumping Duties on Imports of Mattresses from Cambodia, Indonesia, Malaysia, Serbia, Thailand, Turkey, and Vietnam and Countervailing Duties on Imports from China: Supplemental Questions,” dated April 3, 2020 (General Issues Supplemental); and country-specific supplemental questionnaires: Cambodia Supplemental, Indonesia Supplemental, Malaysia Supplemental, Serbia Supplemental, Thailand Supplemental, Turkey Supplemental, and Vietnam Supplemental, dated April 3, 2020; *see also* country-specific and general issues memoranda regarding telephone conversation with counsel for the petitioners, dated April 10 and April 14, 2020.

⁵ See Petitioners’ First Country-Specific Supplemental Responses, dated April 8, 2020; *see also* Petitioners’ Letter, “Mattresses from Cambodia, China, Indonesia, Malaysia, Serbia, Thailand, Turkey, and Vietnam: Responses to Petition Supplemental Questionnaires,” dated April 8, 2020 (General Issues Supplement); Second Country-Specific Supplemental Responses, dated April 13, 2020; and Petitioners’ Letter, “Mattresses from Cambodia, China, Indonesia, Malaysia, Serbia, Thailand, Turkey, and Vietnam – Responses to Petition Second Supplemental Questionnaires,” dated April 13, 2020 (Second General Issues Supplement); and Petitioners’ Letter, “Mattresses from Cambodia, China, Indonesia, Malaysia, Serbia, Thailand, Turkey, and Vietnam: Mattress Petitioners’ Response to Request for Additional Information Regarding Industry Support,” dated April 16, 2020 (Industry Support Supplement).

Commerce finds that the petitioners filed the Petitions on behalf of the domestic industry, because the petitioners are interested parties, as defined in sections 771(9)(C) and (D) of the Act. Commerce also finds that the petitioners demonstrated sufficient industry support for the initiation of the requested AD investigations.⁶

Period of Investigations

Because the Petitions were filed on March 31, 2020, the period of investigation (POI) for the Cambodia, Indonesia, Malaysia, Serbia, Thailand, and Turkey AD investigations is January 1, 2019 through December 31, 2019, pursuant to 19 CFR 351.204(b)(1).⁷ Because Vietnam is a non-market economy (NME) country, pursuant to 19 CFR 351.204(b)(1), the POI for the Vietnam AD investigation is July 1, 2019 through December 31, 2019.⁸

Scope of the Investigations

The products covered by these investigations are mattresses from Cambodia, Indonesia, Malaysia, Serbia, Thailand, Turkey, and Vietnam. For a full description of the scope of these investigations, *see* the appendix to this notice.

Comments on the Scope of the Investigations

On April 3, 2020, Commerce requested further information from the petitioners regarding the proposed scope to ensure that the scope language in the Petition is an accurate reflection of the products for which the domestic industry is seeking relief.⁹ On April 8, 2020, the petitioners revised the scope.¹⁰ On April 10, 2020, Commerce requested further clarification from the

⁶ See *infra*, section on “Determination of Industry Support for the Petitions.”

⁷ See 19 CFR 351.204(b)(1).

⁸ *Id.*

⁹ See General Issues Questionnaire.

¹⁰ See First General Issues Supplement at Exhibit I-Supp-5.

petitioners regarding the proposed scope.¹¹ On April 13, 2020, the petitioners further modified the scope of the Petition to clarify the description of the merchandise covered by the Petition.¹² The description of the merchandise covered by these investigations, as described in the appendix to this notice, reflects these clarifications.

As discussed in the *Preamble* to Commerce's regulations, we are setting aside a period for interested parties to raise issues regarding product coverage (*i.e.*, scope).¹³ Commerce will consider all comments received from interested parties and, if necessary, will consult with interested parties prior to the issuance of the preliminary determinations. If scope comments include factual information,¹⁴ all such factual information should be limited to public information. To facilitate preparation of its questionnaires, Commerce requests that all interested parties submit such comments by 5:00 p.m. Eastern Time (ET) on May 11, 2020, which is the next business day after 20 calendar days from the signature date of this notice.¹⁵ Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. ET on May 21, 2020, which is ten calendar days from the initial comment deadline.¹⁶

Commerce requests that any factual information parties consider relevant to the scope of the investigations be submitted during this period. However, if a party subsequently finds that additional factual information pertaining to the scope of the investigations may be relevant, the party may contact Commerce and request permission to submit the additional information. All such submissions must be filed on the records of the concurrent AD and CVD investigations.

¹¹ See Memorandum of Telephone Conversation.

¹² See Second General Issues Supplement at Exhibit I-Supp2-1.

¹³ See *Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

¹⁴ See 19 CFR 351.102(b)(21) (defining "factual information").

¹⁵ Commerce practice dictates that where a deadline falls on a weekend or Federal holiday, the appropriate deadline is the next business day (in this instance, May 11, 2020). See *Notice of Clarification: Application of "Next Business Day" Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended*, 70 FR 24533 (May 10, 2005) (*Next Business Day Rule*).

¹⁶ See 19 CFR 351.303(b).

Filing Requirements

All submissions to Commerce must be filed electronically via Enforcement and Compliance's Antidumping Duty and Countervailing Duty Centralized Electronic Service System (ACCESS), unless an exception applies.¹⁷ An electronically filed document must be received successfully in its entirety by the time and date it is due.

Comments on Product Characteristics

Commerce is providing interested parties an opportunity to comment on the appropriate physical characteristics of mattresses to be reported in response to Commerce's AD questionnaires. This information will be used to identify the key physical characteristics of the subject merchandise in order to report the relevant costs of production accurately, as well as to develop appropriate product-comparison criteria.

Interested parties may provide any information or comments that they feel are relevant to the development of an accurate list of physical characteristics. Specifically, they may provide comments as to which characteristics are appropriate to use as: (1) general product characteristics; and (2) product comparison criteria. We note that it is not always appropriate to use all product characteristics as product comparison criteria. We base product comparison criteria on meaningful commercial differences among products. In other words, although there may be some physical product characteristics utilized by manufacturers to describe mattresses, it may be that only a select few product characteristics take into account commercially meaningful physical characteristics. In addition, interested parties may comment on the order in which the

¹⁷ See *Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures*, 76 FR 39263 (July 6, 2011); see also *Enforcement and Compliance; Change of Electronic Filing System Name*, 79 FR 69046 (November 20, 2014) for details of Commerce's electronic filing requirements, effective August 5, 2011. Information on help using ACCESS can be found at <https://access.trade.gov/help.aspx> and a handbook can be found at <https://access.trade.gov/help/Handbook%20on%20Electronic%20Filing%20Procedures.pdf>.

physical characteristics should be used in matching products. Generally, Commerce attempts to list the physical characteristics in order of importance, from most important to least important.

In order to consider the suggestions of interested parties in developing and issuing the AD questionnaires, all product characteristics comments must be filed by 5:00 p.m. ET on May 11, 2020, which is the next business day after 20 calendar days from the signature date of this notice.¹⁸ Any rebuttal comments must be filed by 5:00 p.m. ET on May 21, 2020. All comments and submissions to Commerce must be filed electronically using ACCESS, as explained above, on the record of each of the AD investigations.

Determination of Industry Support for the Petitions

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) at least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, Commerce shall: (i) poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the “industry.”

¹⁸ See 19 CFR 351.303(b). Commerce practice dictates that where a deadline falls on a weekend or Federal holiday, the appropriate deadline is the next business day (in this instance, April 20, 2020). See *Next Business Day Rule*, 70 FR at 24533.

Section 771(4)(A) of the Act defines the “industry” as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs Commerce to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether “the domestic industry” has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both Commerce and the ITC must apply the same statutory definition regarding the domestic like product,¹⁹ they do so for different purposes and pursuant to a separate and distinct authority. In addition, Commerce’s determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.²⁰

Section 771(10) of the Act defines the domestic like product as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.” Thus, the reference point from which the domestic like product analysis begins is “the article subject to an investigation” (*i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, the petitioners do not offer a definition of the domestic like product distinct from the scope of the investigations.²¹ Based on our analysis of the information submitted on the record, we have determined that mattresses, as defined in the

¹⁹ See section 771(10) of the Act.

²⁰ See *USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd. v. United States*, 688 F. Supp. 639, 644 (CIT 1988), *aff’d* 865 F. 2d 240 (Fed. Cir. 1989)).

²¹ See Volume I of the Petitions at 13-16; *see also* First General Issues Supplement, at Exhibit I-Supp-2.

scope, constitute a single domestic like product, and we have analyzed industry support in terms of that domestic like product.²²

In determining whether the petitioners have standing under section 732(c)(4)(A) of the Act, we considered the industry support data contained in the Petitions with reference to the domestic like product as defined in the “Scope of the Investigations,” in the appendix to this notice. To establish industry support, the petitioners provided the 2019 production of the domestic like product for the U.S. producers that support the Petitions.²³ The petitioners estimated the production of the domestic like product for the entire domestic industry based on the production data from the ITC’s 2019 report from the AD investigation of mattresses from China.²⁴ We relied on data provided by the petitioners for purposes of measuring industry support.²⁵

On April 9, 2020 and April 10, 2020, respectively, we received comments on industry support from Ashley Furniture industries, Inc. (Ashley), a domestic producer and importer of subject merchandise,²⁶ and Classic Brands, LLC (Classic Brands), an importer of subject merchandise.²⁷ The petitioners responded to these industry support comments on April 13,

²² For a discussion of the domestic like product analysis as applied to these cases and information regarding industry support, *see* country-specific AD Initiation Checklists at Attachment II, Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering Mattresses from Cambodia, China, Indonesia, Malaysia, Serbia, Thailand, Turkey, and Vietnam (Attachment II).

²³ *See* Volume I of the Petitions at 3-4, Exhibit I-3, and Exhibit I-4; *see also* First General Issues Supplement, at 2 and Exhibit I-Supp-1; and Industry Support Supplement, at Exhibit 2.

²⁴ *See* Volume I of the Petitions at 3-4 and Exhibit I-4; *see also* First General Issues Supplement at 2, Exhibit I-Supp-1, and Exhibit I-Supp-2; *Mattresses from China*, Inv. No. 731-TA-1424 (Final), USITC Pub. 5000 (December 2019), at 17-25, II-1 to II-28; and Industry Support Supplement, at 2-5 and Exhibit 1.

²⁵ *See* Volume I of the Petitions at 3-4, Exhibit I-3, and Exhibit I-4; *see also* First General Issues Supplement at 2, Exhibit I-Supp-1, and Exhibit I-Supp-2; and Industry Support Supplement. For further discussion, *see* Attachment II of the country-specific AD Initiation Checklists.

²⁶ *See* Ashley’s Letter, “Mattresses from Cambodia, Indonesia, Malaysia, Serbia, Thailand, Turkey, Vietnam and China: Comments on Industry Support,” dated April 9, 2020.

²⁷ *See* Classic Brand’s Letter, “Mattresses from Cambodia, China, Indonesia, Malaysia, Serbia, Thailand, Turkey, and Vietnam: Challenge to Petitioners’ Standing,” dated April 10, 2020.

2020.²⁸ On April 17, 2020, we received surrebuttal comments from Ashley²⁹ and Classic Brands³⁰ with regard to the petitioners' April 13, 2020 comments. The petitioners responded to these surrebuttal industry support comments on April 20, 2020.³¹

Our review of the data provided in the Petitions, the General Issues Supplement, Industry Support Supplement, and other information readily available to Commerce indicates that the petitioners have established industry support for the Petitions.³² First, the Petitions established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, Commerce is not required to take further action in order to evaluate industry support (*e.g.*, polling).³³ Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petitions account for at least 25 percent of the total production of the domestic like product.³⁴ Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petitions account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petitions.³⁵ Accordingly, Commerce

²⁸ See Petitioners' Letter, "Mattresses from Cambodia, China, Indonesia, Malaysia, Serbia, Thailand, Turkey, and Vietnam: Mattress Petitioners' Response to Ashley's Industry Support Claims," dated April 13, 2020.

²⁹ See Ashley's Letter, "Mattresses from Cambodia, Indonesia, Malaysia, Serbia, Thailand, Turkey, Vietnam and China: Response to Petitioners' Comments on Industry Support," dated April 17, 2020.

³⁰ See Classic Brand's Letter, "Mattresses from Cambodia, China, Indonesia, Malaysia, Serbia, Thailand, Turkey, and Vietnam: Classic Brands's Surrebuttal on Petitioners' Standing," dated April 17, 2020.

³¹ See Petitioners' Letter, "Mattresses from Cambodia, China, Indonesia, Malaysia, Serbia, Thailand, Turkey, and Vietnam: Mattress Petitioners' Response to Industry Support Claims Filed on April 17, 2020 by Ashley and Classic Brands," dated April 20, 2020.

³² See Attachment II of the country-specific AD Initiation Checklists.

³³ *Id.*; see also section 732(c)(4)(D) of the Act.

³⁴ See Attachment II of the country-specific AD Initiation Checklists.

³⁵ *Id.*

determines that the Petitions were filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act.³⁶

Allegations and Evidence of Material Injury and Causation

The petitioners allege that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the imports of the subject merchandise sold at LTFV. In addition, the petitioners allege that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.³⁷

The petitioners contend that the industry's injured condition is illustrated by a significant and increasing volume of subject imports; reduced market share; underselling and price depression or suppression; lost sales and revenues; declining production, capacity utilization, and sales volumes; declining employment variables; and a decline in financial performance and profitability.³⁸ We assessed the allegations and supporting evidence regarding material injury, threat of material injury, causation, as well as negligibility and cumulation, and we have determined that these allegations are properly supported by adequate evidence, and meet the statutory requirements for initiation.³⁹

Allegations of Sales at LTFV

The following is a description of the allegations of sales at LTFV upon which Commerce based its decision to initiate AD investigations of imports of mattresses from Cambodia, Indonesia, Malaysia, Serbia, Thailand, Turkey, and Vietnam. The sources of data for the

³⁶ *Id.*

³⁷ See Volume I of the Petitions, at 17-18 and Exhibit I-12.

³⁸ See Volume I of the Petitions, at 28-46 and Exhibits I-8 through I-18; *see also* First General Issues Supplement, at Exhibit I-Supp-2.

³⁹ See country-specific AD Initiation Checklists at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping and Countervailing Duty Petitions Covering Mattresses from Cambodia, China, Indonesia, Malaysia, Serbia, Thailand, Turkey, and Vietnam (Attachment III).

deductions and adjustments relating to U.S. price and normal value (NV) are discussed in greater detail in the country-specific AD Initiation Checklists.

U.S. Price

For all countries, the petitioners based EP on the average unit value (AUV) of publicly available import data;⁴⁰ no adjustments were made to the U.S. price before comparing it to NV.

Normal Value⁴¹

For Cambodia, Indonesia, Malaysia, Serbia, Thailand, and Turkey, the petitioners were unable to obtain home market prices for mattresses produced and sold in the subject countries. Therefore, for these countries, the petitioners based NV on AUVs of publicly available export data for exports of mattresses from the subject countries to third countries.⁴² For each of the countries, the petitioners also provided information showing that the AUVs were below the COP and, therefore, the petitioners calculated NV based on constructed value (CV).⁴³

For further discussion of CV, *see* the section “Normal Value Based on Constructed Value.”

Commerce considers Vietnam to be an NME country.⁴⁴ In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by Commerce. Therefore, we continue to treat Vietnam as an NME country for purposes of the initiation of this investigation. Accordingly, NV in Vietnam is

⁴⁰ *See* country-specific AD Initiation Checklists.

⁴¹ In accordance with section 773(b)(2) of the Act, for these investigations, Commerce will request information necessary to calculate the constructed value and cost of production (COP) to determine whether there are reasonable grounds to believe or suspect that sales of the foreign like product have been made at prices that represent less than the COP of the product. Commerce no longer requires a COP allegation to conduct this analysis.

⁴² *See* country-specific AD Initiation Checklists for Cambodia, Indonesia, Malaysia, Serbia, Thailand, and Turkey.

⁴³ *Id.*

⁴⁴ *See Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Final Results, and Final Results of No Shipments of the Antidumping Duty Administrative Review; 2016-2017*, 84 FR 18007 (April 29, 2019).

appropriately based on factors of production (FOPs) valued in a surrogate market economy country, in accordance with section 773(c) of the Act.⁴⁵

The petitioners claim that India is an appropriate surrogate country for Vietnam because India is a market economy country that is at a level of economic development comparable to that of Vietnam and it is a significant producer of comparable merchandise.⁴⁶ The petitioners provided publicly available information from India to value all FOPs. Based on the information provided by the petitioners, we determine that it is appropriate to use India as a surrogate country for initiation purposes.

Interested parties will have the opportunity to submit comments regarding surrogate country selection and, pursuant to 19 CFR 351.301(c)(3)(i), will be provided an opportunity to submit publicly available information to value FOPs within 30 days before the scheduled date of the preliminary determination.

Factors of Production

Because information regarding the volume of inputs consumed by Vietnamese producers/exporters was not reasonably available, the petitioners used their own product-specific consumption rates as a surrogate to estimate Vietnamese manufacturers' FOPs.⁴⁷ The petitioners valued the estimated FOPs using surrogate values from India.⁴⁸ The petitioners calculated

⁴⁵ See Vietnam AD Initiation Checklist.

⁴⁶ See Volume IX of the Petition at 2-4 and Exhibit IX-4.

⁴⁷ See Volume IX of the Petition at 5 and Exhibit IX-6; *see also* Petitioners' Letter, "Supplemental Petition Questionnaire," dated April 8, 2020, at Exhibits IX-Supp-5 and IX-Supp-10 (Vietnam AD Supplement); Petitioners' Letter, "Second Supplemental Questionnaire on the Petition," dated April 13, 2020, at Exhibit IX-Supp2-1 (Second Vietnam AD Supplement).

⁴⁸ See Volume IX of the Petition at 5-6 and Exhibits IX-5 and IX-7; *see also* Vietnam AD Supplement at 8-9 and Exhibits IX-Supp-5 and IX-Supp-10; Second Vietnam AD Supplement at Exhibit IX-Supp2-1.

factory overhead, selling, general and administrative expenses, and profit based on the experience of an Indian producer of mattresses.⁴⁹

Normal Value Based on Constructed Value

As noted above, the petitioners demonstrated that the third country export AUVs for Cambodia, Indonesia, Malaysia, Serbia, Thailand, and Turkey were below COP. Accordingly, the petitioners based NV on CV.⁵⁰ Pursuant to section 773(e) of the Act, the petitioners calculated CV as the sum of the cost of manufacturing, selling, general, and administrative expenses, financial expenses, and profit.⁵¹

Fair Value Comparisons

Based on the data provided by the petitioners, there is reason to believe that imports of mattresses from Cambodia, Indonesia, Malaysia, Serbia, Thailand, Turkey, and Vietnam are being, or are likely to be, sold in the United States at LTFV. Based on comparisons of EP or CEP, as applicable, to NV in accordance with sections 772 and 773 of the Act, the estimated dumping margins for mattresses for each of the countries covered by this initiation are as follows: (1) Cambodia, 326.49 – 675.83 percent; (2) Indonesia, 213.44 – 429.74 percent; (3) Malaysia, 42.92 percent; (4) Serbia, 57.37 – 183.16 percent; (5) Thailand, 414.77 – 763.28 percent; (6) Turkey, 267.55 – 609.51 percent; and (7) Vietnam, 481.72 – 989.90 percent.⁵²

Initiation of LTFV Investigations

Based upon the examination of the Petitions and supplemental responses, we find that they meet the requirements of section 732 of the Act. Therefore, we are initiating AD

⁴⁹ See Volume IX of the Petition at 6-7 and Exhibit IX-10; *see also* Vietnam AD Supplement at Exhibit IX-Supp-5 and IX-Supp-10; Second Vietnam AD Supplement at Exhibit IX-Supp2-1.

⁵⁰ See country-specific AD Initiation Checklists for Cambodia, Indonesia, Malaysia, Serbia, Thailand, and Turkey for details of calculations.

⁵¹ *Id.*

⁵² *Id.*

investigations to determine whether imports of mattresses from Cambodia, Indonesia, Malaysia, Serbia, Thailand, Turkey, and Vietnam are being, or are likely to be, sold in the United States at LTFV. In accordance with section 733(b)(1)(A) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determinations no later than 140 days after the date of this initiation.

Respondent Selection

In the Petitions, the petitioners named 8 companies in Cambodia, 13 companies in Indonesia, 21 companies in Malaysia, 12 companies in Serbia, 19 companies in Thailand, and 29 companies in Turkey⁵³ as producers/exporters of mattresses.

Following standard practice in AD investigations involving market economy countries, in the event Commerce determines that the number of companies is large and that Commerce cannot individually examine each company based upon Commerce's resources, where appropriate, Commerce intends to select mandatory respondents in Cambodia, Indonesia, Malaysia, Serbia, Thailand, and Turkey based on U.S. Customs and Border Protection (CBP) data for U.S. imports under the appropriate Harmonized Tariff Schedule of the United States numbers listed in the "Scope of the Investigations," in the appendix.

For each country, on April 14, 2020, Commerce released CBP data on imports of mattresses to all parties with access to information protected by Administrative Protective Order (APO) and indicated that interested parties wishing to comment on the CBP data must do so within three business days of the publication date of the notice of initiation of these

⁵³ See Volume I of the Petitions at page 22 and Exhibit I-7.

investigations.⁵⁴ Commerce will not accept rebuttal comments regarding the CBP data or respondent selection.

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305(b). Instructions for filing such applications may be found on Commerce's website at <http://enforcement.trade.gov/apo>.

With respect to Vietnam, the petitioners named 10 companies in Vietnam as producers/exporters of mattresses.⁵⁵ In accordance with our standard practice for respondent selection in AD investigations involving NME countries, Commerce selects respondents based on quantity and value (Q&V) questionnaires in cases where it has determined that the number of companies is large and it cannot individually examine each company based upon its resources. Therefore, considering the number of producers and exporters identified in the Petition, Commerce will solicit Q&V information that can serve as a basis for selecting exporters for individual examination in the event that Commerce decides to limit the number of respondents individually examined pursuant to section 777A(c)(2) of the Act. Given that there are 10 producers and exporters identified in the Petition, Commerce has determined that it will issue Q&V questionnaires to each potential respondent for which the petitioners have provided a complete address.

In addition, Commerce will post the Q&V questionnaire along with filing instructions on Enforcement and Compliance's website at <http://www.trade.gov/enforcement/news.asp>. Producers/exporters of mattresses from Vietnam that do not receive Q&V questionnaires may still submit a response to the Q&V questionnaire and can obtain a copy of the Q&V questionnaire from Enforcement and Compliance's website. In accordance with the standard

⁵⁴ See country-specific memoranda, "Release of Customs Data from U.S. Customs and Border Protection."

⁵⁵ See Volume I of the Petition at Exhibit I-7.

practice for respondent selection in AD cases involving NME countries, in the event Commerce decides to limit the number of respondents individually investigated, Commerce intends to base respondent selection on the responses to the Q&V questionnaire that it receives.

Responses to the Q&V questionnaire must be submitted by the relevant Vietnamese producers/exporters no later than 5:00 PM ET on May 6, 2020. All Q&V questionnaire responses must be filed electronically via ACCESS. An electronically filed document must be received successfully, in its entirety, by ACCESS no later than 5:00 p.m. ET on the deadline noted above. Commerce intends to finalize its decisions regarding respondent selection within 20 days of publication of this notice.

Separate Rates

In order to obtain separate-rate status in an NME investigation, exporters and producers must submit a separate-rate application.⁵⁶ The specific requirements for submitting a separate-rate application in a Vietnam investigation are outlined in detail in the application itself, which is available on Commerce's website at <http://enforcement.trade.gov/nme/nme-sep-rate.html>. The separate-rate application will be due 30 days after publication of this initiation notice.⁵⁷ Exporters and producers who submit a separate-rate application and have been selected as mandatory respondents will be eligible for consideration for separate-rate status only if they respond to all parts of Commerce's AD questionnaire as mandatory respondents. Commerce requires that companies from Vietnam submit a response to both the Q&V questionnaire and the separate-rate application by the respective deadlines in order to receive consideration for

⁵⁶ See Policy Bulletin 05.1: Separate-Rates Practice and Application of Combination Rates in Antidumping Investigation involving NME Countries (April 5, 2005), available at <http://enforcement.trade.gov/policy/bull05-1.pdf> (Policy Bulletin 05.1).

⁵⁷ Although in past investigations this deadline was 60 days, consistent with 19 CFR 351.301(a), which states that "the Secretary may request any person to submit factual information at any time during a proceeding," this deadline is now 30 days.

separate-rate status. Companies not filing a timely Q&V questionnaire response will not receive separate rate consideration.

Use of Combination Rates

Commerce will calculate combination rates for certain respondents that are eligible for a separate rate in an NME investigation. The Separate Rates and Combination Rates Bulletin states:

{w}hile continuing the practice of assigning separate rates only to exporters, all separate rates that the Department will now assign in its NME Investigation will be specific to those producers that supplied the exporter during the period of investigation. Note, however, that one rate is calculated for the exporter and all of the producers which supplied subject merchandise to it during the period of investigation. This practice applies both to mandatory respondents receiving an individually calculated separate rate as well as the pool of non-investigated firms receiving the weighted-average of the individually calculated rates. This practice is referred to as the application of “combination rates” because such rates apply to specific combinations of exporters and one or more producers. The cash-deposit rate assigned to an exporter will apply only to merchandise both exported by the firm in question and produced by a firm that supplied the exporter during the period of investigation.⁵⁸

Distribution of Copies of the AD Petitions

In accordance with section 732(b)(3)(A) of the Act and 19 CFR 351.202(f), copies of the public version of the AD Petitions have been provided to the governments of Cambodia, Indonesia, Malaysia, Serbia, Thailand, Turkey, and Vietnam via ACCESS. To the extent practicable, we will attempt to provide a copy of the public version of the AD Petitions to each exporter named in the AD Petitions, as provided under 19 CFR 351.203(c)(2).

ITC Notification

We will notify the ITC of our initiation, as required by section 732(d) of the Act.

⁵⁸ See Policy Bulletin 05.1 at 6 (emphasis added).

Preliminary Determinations by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the AD Petitions were filed, whether there is a reasonable indication that imports of mattresses from Cambodia, Indonesia, Malaysia, Serbia, Thailand, Turkey, and/or Vietnam are materially injuring, or threatening material injury to, a U.S. industry.⁵⁹ A negative ITC determination for any country will result in the investigation being terminated with respect to that country.⁶⁰ Otherwise, these AD investigations will proceed according to statutory and regulatory time limits.

Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by Commerce; and (v) evidence other than factual information described in (i)–(iv). Section 351.301(b) of Commerce’s regulations requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted⁶¹ and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct.⁶² Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the

⁵⁹ See section 733(a) of the Act.

⁶⁰ *Id.*

⁶¹ See 19 CFR 351.301(b).

⁶² See 19 CFR 351.301(b)(2).

type of factual information being submitted. Interested parties should review the regulations prior to submitting factual information in these investigations.

Particular Market Situation Allegation

Section 504 of the Trade Preferences Extension Act of 2015 amended the Act by adding the concept of particular market situation (PMS) for purposes of CV under section 773(e) of the Act.⁶³ Section 773(e) of the Act states that “if a particular market situation exists such that the cost of materials and fabrication or other processing of any kind does not accurately reflect the cost of production in the ordinary course of trade, the administering authority may use another calculation methodology under this subtitle or any other calculation methodology.” When an interested party submits a PMS allegation pursuant to section 773(e) of the Act, Commerce will respond to such a submission consistent with 19 CFR 351.301(c)(2)(v). If Commerce finds that a PMS exists under section 773(e) of the Act, then it will modify its dumping calculations appropriately.

Neither section 773(e) of the Act, nor 19 CFR 351.301(c)(2)(v), sets a deadline for the submission of PMS allegations and supporting factual information. However, in order to administer section 773(e) of the Act, Commerce must receive PMS allegations and supporting factual information with enough time to consider the submission. Thus, should an interested party wish to submit a PMS allegation and supporting new factual information pursuant to section 773(e) of the Act, it must do so no later than 20 days after submission of a respondent’s initial section D questionnaire response.

⁶³ See Trade Preferences Extension Act of 2015, Pub. L. No. 114-27, 129 Stat. 362 (2015).

Extensions of Time Limits

Parties may request an extension of time limits before the expiration of a time limit established under 19 CFR 351.301, or as otherwise specified by Commerce. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under 19 CFR 351.301. For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. ET on the due date. Under certain circumstances, we may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, we will inform parties in a letter or memorandum of the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, stand-alone submission; under limited circumstances we will grant untimely-filed requests for the extension of time limits. Parties should review *Extension of Time Limits; Final Rule*, 78 FR 57790 (September 20, 2013), available at <http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm>, prior to submitting factual information in these investigations.

Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.⁶⁴ Parties must use the certification formats provided in 19 CFR 351.303(g).⁶⁵ Commerce intends to reject factual submissions if the submitting party does not comply with the applicable certification requirements.

⁶⁴ See section 782(b) of the Act.

⁶⁵ See *Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings*, 78 FR 42678 (July 17, 2013) (*Final Rule*). Answers to frequently asked questions regarding the *Final Rule* are available at http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.

Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. On January 22, 2008, Commerce published *Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures*, 73 FR 3634 (January 22, 2008). Parties wishing to participate in these investigations should ensure that they meet the requirements of these procedures (*e.g.*, the filing of letters of appearance as discussed at 19 CFR 351.103(d)). Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until May 19, 2020, unless extended.⁶⁶

This notice is issued and published pursuant to sections 732(c)(2) and 777(i) of the Act, and 19 CFR 351.203(c).

Dated: April 20, 2020.

Jeffrey I. Kessler,
Assistant Secretary
for Enforcement and Compliance.

⁶⁶ See *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19*, 85 FR 17006 (March 26, 2020).

Appendix

Scope of the Investigations

The products covered by these investigations are all types of youth and adult mattresses. The term “mattress” denotes an assembly of materials that at a minimum includes a “core,” which provides the main support system of the mattress, and may consist of innersprings, foam, other resilient filling, or a combination of these materials. Mattresses may also contain (1) “upholstery,” the material between the core and the top panel of the ticking on a single-sided mattress, or between the core and the top and bottom panel of the ticking on a double-sided mattress; and/or (2) “ticking,” the outermost layer of fabric or other material (*e.g.*, vinyl) that encloses the core and any upholstery, also known as a cover.

The scope of these investigations is restricted to only “adult mattresses” and “youth mattresses.” “Adult mattresses” are frequently described as “twin,” “extra-long twin,” “full,” “queen,” “king,” or “California king” mattresses. “Youth mattresses” are typically described as “crib,” “toddler,” or “youth” mattresses. All adult and youth mattresses are included regardless of size or size description.

The scope encompasses all types of “innerspring mattresses,” “non-innerspring mattresses,” and “hybrid mattresses.” “Innerspring mattresses” contain innersprings, a series of metal springs joined together in sizes that correspond to the dimensions of mattresses. Mattresses that contain innersprings are referred to as “innerspring mattresses” or “hybrid mattresses.” “Hybrid mattresses” contain two or more support systems as the core, such as layers of both memory foam and innerspring units.

“Non-innerspring mattresses” are those that do not contain any innerspring units. They are generally produced from foams (*e.g.*, polyurethane, memory (viscoelastic), latex foam, gel-infused viscoelastic (gel foam), thermobonded polyester, polyethylene) or other resilient filling.

Mattresses covered by the scope of these investigations may be imported independently, as part of furniture or furniture mechanisms (*e.g.*, convertible sofa bed mattresses, sofa bed mattresses imported with sofa bed mechanisms, corner group mattresses, day-bed mattresses, roll-away bed mattresses, high risers, trundle bed mattresses, crib mattresses), or as part of a set in combination with a “mattress foundation.” “Mattress foundations” are any base or support for a mattress. Mattress foundations are commonly referred to as “foundations,” “boxsprings,” “platforms,” and/or “bases.” Bases can be static, foldable, or adjustable. Only the mattress is covered by the scope if imported as part of furniture, with furniture mechanisms, or as part of a set, in combination with a mattress foundation.

Excluded from the scope of these investigations are “futon” mattresses. A “futon” is a bi-fold frame made of wood, metal, or plastic material, or any combination thereof, that functions as both seating furniture (such as a couch, love seat, or sofa) and a bed. A “futon mattress” is a tufted mattress, where the top covering is secured to the bottom with thread that goes completely through the mattress from the top through to the bottom, and it does not contain innersprings or foam. A futon mattress is both the bed and seating surface for the futon.

Also excluded from the scope are airbeds (including inflatable mattresses) and waterbeds, which consist of air- or liquid-filled bladders as the core or main support system of the mattress.

Also excluded is certain multifunctional furniture that is convertible from seating to sleeping, regardless of filler material or components, where that filler material or components are upholstered, integrated into the design and construction of, and inseparable from, the furniture framing, and the outermost layer of the multifunctional furniture converts into the sleeping surface. Such furniture may, and without limitation, be commonly referred to as “convertible sofas,” “sofa beds,” “sofa chaise sleepers,” “futons,” “ottoman sleepers” or a like description.

Also excluded from the scope of these investigations are any products covered by the existing antidumping duty orders on uncovered innerspring units from China or Vietnam. *See Uncovered Innerspring Units from the People’s Republic of China: Notice of Antidumping Duty Order*, 74 Fed. Reg. 7661 (Feb. 19, 2009); *Uncovered Innerspring Units From the Socialist Republic of Vietnam*, 73 Fed. Reg. 75391 (Dec. 11, 2008).

Also excluded from the scope of these investigations are bassinet pads with a nominal length of less than 39 inches, a nominal width less than 25 inches, and a nominal depth of less than 2 inches.

Additionally, also excluded from the scope of these investigations are “mattress toppers.” A “mattress topper” is a removable bedding accessory that supplements a mattress by providing an additional layer that is placed on top of a mattress. Excluded mattress toppers have a nominal height of four inches or less.

The products subject to these investigations are currently properly classifiable under HTSUS subheadings: 9404.21.0010, 9404.21.0013, 9404.29.1005, 9404.29.1013, 9404.29.9085, and 9404.29.9087. Products subject to these investigations may also enter under HTSUS subheadings: 9404.21.0095, 9404.29.1095, 9404.29.9095, 9401.40.0000, and 9401.90.5081. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise subject to these investigations is dispositive.

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